

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

CLARENCE D. SCHREANE	)	
	)	
v.	)	1:09-cv-45 \ 1:98-cr-61
	)	Chief Judge Curtis L. Collier
UNITED STATES OF AMERICA	)	

**MEMORANDUM**

The Court has received a second or successive motion to vacate, set aside, or correct sentence filed under 28 U.S.C. § 2255 from Clarence D. Schreane (“Schreane”) (Crim. Court File No. 81). Schreane challenges his 2001 conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g). Following the Sixth Circuit’s decision affirming his conviction, Schreane filed a tardy motion pursuant to 28 U.S.C. § 2255. *See United States v. Schreane*, Civil Action No. 1:04-cv-363 (E.D. Tenn.2004). The civil docket sheet reflects that the Court dismissed Schreane’s § 2255 motion because it was time-barred (Civil Court File No. 4).

Now, approximately five years later, Schreane has filed a second § 2255 motion. *See Schreane v. United States*, Civil Action No. 1:09-cv-45 (E.D. Tenn. 2009) and Criminal Action No. 1:98-cr-61 (Court File No. 81). In accordance with the “Antiterrorism and Effective Death Penalty Act of 1996,” effective April 24, 1996, the petitioner cannot file a second or successive § 2255 motion in the district court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the motion. This Court has not received an order from the Sixth Circuit authorizing the Court to consider the pending motion.

Accordingly, since the Sixth Circuit has directed district courts to transfer second or successive § 2255 motions when they are filed without § 2244(b)(3) authorization from the Sixth Circuit, the Clerk will be **DIRECTED** to **TRANSFER** this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631. *See Sims v. Terbush*, 111 F.3d 45, 47 (6<sup>th</sup> Cir. 1997).

A separate order will enter.

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**